



**Federal Communications Commission
Washington, D.C. 20554**

November 1, 2011

In Reply Refer to:
1800B3-VMM

Prof. Jesse Drew, Ph.D
Technocultural Studies Program
209 Sproul Hall
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Davis, CA 95616

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6536 Telegraph Avenue
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Oakland, California 94609

In re: New NCE(FM), Willows, California
Associated Students of California
State University, Chico
Facility ID: 175198
File No. BNPED-20071019AZP

New NCE(FM), Willows, California
Nevada City Community Broadcast Group
Facility ID: 175714
File No. BNPED-20071019AZM

NCE MX Group 311B

Gentlemen:

We have before us a pleading, styled as an "Informal Objection," filed by Jesse Drew, Ph.D. ("Drew"), a resident of Chico, California, on November 29, 2010.¹ Drew objects to the dismissal of an application ("Application") filed by Associated Students of California State University, Chico, ("Cal State - Chico") for a new noncommercial educational ("NCE") FM radio station at Willows, California.² For the reasons discussed below, we treat the Informal Objection as a late-filed petition for reconsideration and dismiss it as untimely.

¹ Nevada City Community Broadcast Group ("NCCBG"), filed an opposition to Drew's pleading on December 8, 2010.

² *Letter to Associated Students of California State University, Chico* (Assistant Chief, Audio Division, Media Bureau, January 21, 2010).

Background. Cal State - Chico filed the Application during a filing window for NCE FM applications in October 2007. The Application was deemed defective and unacceptable for filing due to prohibited overlap between the protected contour of the proposed station and the interfering contour of nearby Station KKTO(FM), Tahoe City, California, in violation of Section 73.509 of the Commission's Rules ("Rules"). The Application was therefore dismissed on January 21, 2010.³ A petition for reconsideration of action taken pursuant to designated authority must be filed within thirty (30) days of public notice of such action.⁴ In this case, public notice of the dismissal of the Application was published on January 27, 2010,⁵ making petitions for reconsideration due by February 28, 2010. No party sought reconsideration or review, and the dismissal became final on that date.

Drew argues that a statement by Todd Urick from Common Frequency was overlooked at the time that the Application was under consideration.⁶ He further argues that if that statement had been considered, the Application would not have been dismissed. Thus, he maintains that the Application should be reinstated and considered as part of NCE MX Group 311B,⁷ and requests the Commission to "review this error before officially proclaiming a tentative selectee for Group 311B."⁸

NCCBG, the tentative selectee in MX Group 311B, argues Drew's pleading should be dismissed. It states that Cal State - Chico specifically decided to drop the matter, and includes a sworn statement of Michael Couzens, and an email from Jon Slaughter, Director of Associated Students Programs for Cal State - Chico, in support of this.⁹ The email from Mr. Slaughter specifically states that he did not want to continue prosecuting the Application.

Discussion. While Drew characterizes his pleading as an "Informal Objection," it is actually a petition for reconsideration of the dismissal of the Application. However, it is untimely as a petition for reconsideration under Section 405(a) of the Communications Act of 1934,¹⁰ as amended, as implemented by Section 1.106(f) of the Commission's Rules¹¹ because it was filed more than 30 days from the public

³ *Id.*

⁴ 47 C.F.R. §§ 1.106(f), 1.115(d).

⁵ *Broadcast Actions*, Public Notice, Report No. 47160 (Jan. 27, 2010).

⁶ Informal Objection at 1.

⁷ See *Threshold Fair Distribution Analysis of 9 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations Filed in the October 2007 Window*, Memorandum Opinion and Order, 25 FCC Rcd 15134, 15136 (MB 2010) (naming NCCBG as the tentative selectee in MX Group 311B).

⁸ *Id.*

⁹ Opposition to Informal Objection, Attachments 1 and 2. We note that Michael Couzens is the attorney for NCCBG.

¹⁰ 47 U.S.C. §405(a). Section 405(a) also requires that any party seeking reconsideration either be a party to the proceeding in question or be "aggrieved or . . . adversely affected by" the underlying decision. *Id.* Drew is not a party to the Application and does not reside within the service area proposed in the Application. Accordingly, we find that Drew has not shown that he has standing to seek reconsideration of the dismissal of the Application. We would deny Drew's request for reconsideration on this basis if it were not being dismissed as untimely.

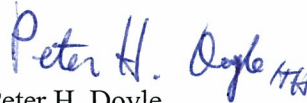
¹¹ 47 C.F.R. §1.106(f).

notice of the Commission's action. Accordingly, the Informal Objection will be treated as a petition for reconsideration and be dismissed as untimely.¹²

Conclusion/Actions. Accordingly, IT IS ORDERED, that Jesse Drew, Ph.D.'s Informal Objection, which is treated as a petition for reconsideration, is DISMISSED.

IT IS FURTHER ORDERED, that the application for a new noncommercial educational FM station at Willows, California (File No. BNPED-20071019AZM) filed by Nevada City Community Broadcasting Group, IS GRANTED subject to the condition that it must operate technical facilities substantially as proposed for a period of four years of on-air operations.¹³

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by a stylized monogram "HKA".

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Associated Students of California State University, Chico
Nevada City Community Broadcasting Group

¹² Even if we were to consider it as an informal objection, we would deny it based on Cal State - Chico's unwillingness to prosecute the application. *See* Opposition to Informal Objection, Attachments 1 and 2.

¹³ *See* 47 C.F.R. § 73.7002(c) (requiring four years of on-air operations as proposed when a tentative selectee receives a fair distribution preference).